

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jayvee Rhoda	Team: Squad #8	CCRB Case #: 201503358	<input type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury		
Incident Date(s) Saturday, 04/25/2015 8:02 PM	Location of Incident: [REDACTED]		Precinct: 32	18 Mo. SOL 10/25/2016	EO SOL 10/25/2016
Date/Time CV Reported Tue, 04/28/2015 11:59 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 04/28/2015 11:59 PM		

Complainant/Victim	Type	Home Address

[illegible]

Subject Officer(s)	Shield	TaxID	Command
1. POM Kendo Kinsey	12092	938774	032 PCT
2. SGT John Keane	04227	935094	032 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Melanie Paganmerritt	27997	946090	032 PCT
2. POM Ulysses Dadacay	15121	918279	032 PCT
3. POM Carlos Castillo	19775	943064	032 PCT
4. SGT Julio Calle	00466	927782	032 PCT
5. POF Kerry Hughes	24237	952866	032 PCT
6. POM Jon Westendorf	15415	941256	032 PCT
7. POM Marcus Stewart	31664	942585	032 PCT
8. POM Michael Lassen	16482	951899	032 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT John Keane	Discourtesy: At § 87(2)(b) § 87(2)(b) Sgt. John Keane spoke discourteously to § 87(2)(b) § 87(2)(b) and § 87(2)(b)	[REDACTED]
B.POM Kendo Kinsey	Discourtesy: At the 32nd Precinct stationhouse, PO Kendo Kinsey spoke discourteously to § 87(2)(b) § 87(2)(b) and § 87(2)(b)	[REDACTED]

Case Summary

On April 25, 2015, at approximately 8:02 p.m., § 87(2)(b) and three of her relatives- § 87(2)(b) and § 87(2)(b) visited the apartment of § 87(2)(b)'s son, § 87(2)(b) § 87(2)(b) at § 87(2)(b) § 87(2)(b) in Manhattan. § 87(2)(b) had asked § 87(2)(b) to change the lock on his apartment because his ex-girlfriend, § 87(2)(b) who was living with him, had gone missing for over 30 days. § 87(2)(b) and her relatives encountered § 87(2)(b) at the apartment and removed some of § 87(2)(b)'s belongings from the apartment and placed them in the hallway. A violent physical fight between § 87(2)(b) and the four women ensued. § 87(2)(b) called 911 and Sgt. John Keane, PO Kendo Kinsey, PO Melanie Pagan-Merritt, PO Michael Lassen, and other officers from the 32nd Precinct responded to the location. Sgt. Keane allegedly said, "You motherfuckers are going to pick this shit up now," to § 87(2)(b) and § 87(2)(b) in reference to the items in the hallway (**Allegation A**). Sgt. Keane also allegedly made the following remarks towards § 87(2)(b) and her relatives: "Arrest them motherfuckers"; "All you motherfuckers is going to jail. First you got to pick up this shit and put it back in the apartment now"; "They aren't going nowhere until you all pick this shit up now"; "Take all of them motherfuckers"; "All you motherfuckers get all this stuff back in the house"; and "All you motherfuckers is getting arrested." (**Allegation A**) § 87(2)(b) and § 87(2)(b) were all placed under arrest and transported to the 32nd Precinct stationhouse. At the stationhouse, PO Kinsey allegedly said to § 87(2)(b) and § 87(2)(b) that they were arrested because they did not "pick that shit up that was in the hallway." (**Allegation B**) § 87(2)(b) and § 87(2)(b) were charged with assault and criminal mischief.

Mediation, Civil, and Criminal Histories

§ 87(2)(b) and § 87(2)(b) refused mediation. On July 20, 2015, a FOIL request was sent to the New York City Comptroller's Office and the status of a Notice of Claim for § 87(2)(b) and § 87(2)(b) is pending. § 87(2)(b)
None of the women have any prior convictions.

Civilian and Officer Histories

- This is § 87(2)(b) s, § 87(2)(b) s, § 87(2)(b) s, and § 87(2)(b) s first CCRB complaint (See Board Review 2).
- Sgt. Keane has been a member of the service for 11 years and there are no substantiated CCRB allegations against him (See Board Review 3).
- PO Kinsey has been a member of the service for 10 years and there is one substantiated CCRB allegation against him. In case number 201102302, the Board recommended a command discipline for a discourtesy allegation and the NYPD took no disciplinary action (See Board Review 3).

Findings and Recommendations

Explanation of Subject Officer Identification

Sgt. Keane and PO Kinsey acknowledged interacting with § 87(2)(b) and § 87(2)(b) who identified the officers by name.

Recommendations

Allegation A- Discourtesy: At § 87(2)(b) § 87(2)(b) Sgt. John Keane spoke discourteously to § 87(2)(b) and § 87(2)(b)

Allegation B- Discourtesy: At the 32nd Precinct stationhouse, PO Kendo Kinsey spoke discourteously to § 87(2)(b) and § 87(2)(b)

It is not in dispute that a violent, physical fight took place between § 87(2)(b) and members of her ex-boyfriend's § 87(2)(b) family. § 87(2)(b) stated that she, her daughter § 87(2)(b) her sister § 87(2)(b) and her granddaughter § 87(2)(b) visited § 87(2)(b)'s apartment to fix his lock at his request, since § 87(2)(b) had damaged it. § 87(2)(b) is § 87(2)(b)'s son and § 87(2)(b)'s brother. § 87(2)(b) stated that she helped § 87(2)(b) move her belongings out into the hallway since § 87(2)(b) was moving out. § 87(2)(b) and § 87(2)(b) started fighting each other and § 87(2)(b) struck § 87(2)(b) in the arm with a children's easel. § 87(2)(b) called 911 and several officers from the 32nd Precinct, including Sgt. Kinsey, PO Lassen, PO Pagan-Merritt, and PO Kinsey, arrived at the scene. Sgt. Keane spoke privately with § 87(2)(b) in the hallway but he never spoke with § 87(2)(b) and her family to get their side of the story. § 87(2)(b) and § 87(2)(b) were standing in the hallway when Sgt. Keane approached them and allegedly said, "You motherfuckers are going to pick this shit up now" to them. Sgt. Keane allegedly made the same remark a second time and § 87(2)(b) started picking up the items in the hallway. § 87(2)(b) replied, "I'm not picking up shit." Sgt. Keane ordered the officers at the scene to handcuff § 87(2)(b) and her family and they were all transported to the 32nd Precinct stationhouse. PO Kinsey and PO Pagan-Merritt handled the arrest processing at the stationhouse while § 87(2)(b) and her family were detained in the cell. PO Kinsey allegedly said to § 87(2)(b) and § 87(2)(b) that they were arrested because they did not "pick that shit up that was in the hallway." However, PO Kinsey became more pleasant towards the women and explained that he was just following Sgt. Keane's orders (See Board Review 4).

§ 87(2)(b) stated that before the incident, her nephew, § 87(2)(b) had contacted her stating that § 87(2)(b) had torn the lock off his apartment door and that he was going to get arrested. § 87(2)(b) responded that she and § 87(2)(b) and § 87(2)(b) would go to the apartment. When § 87(2)(b) and her relatives arrived, the lock on the apartment door was torn off. § 87(2)(b) opened the door for them and explained that she had § 87(2)(b) arrested earlier that day. § 87(2)(b) had some personal belongings near the door and § 87(2)(b) took some of these items and placed them in the hallway. § 87(2)(b) and § 87(2)(b) started fighting each other and during the fight, § 87(2)(b) struck § 87(2)(b) with an easel. § 87(2)(b) called 911 and stated that the other four women had assaulted her, but it was only § 87(2)(b) who fought with § 87(2)(b). Sgt. Keane and the other officers from the 32nd Precinct arrived approximately 20 minutes later. § 87(2)(b) and her relatives were in the apartment while § 87(2)(b) was in the hallway. Sgt. Keane remained near the elevator and never came close to the apartment; the remaining officers obtained statements from all parties. § 87(2)(b) stated that while he was in the hallway, Sgt. Keane ordered her and her family to pick up § 87(2)(b)'s belongings in the hallway, saying "You motherfuckers are going to pick this shit up now," to them. Sgt. Keane also said, "Arrest them motherfuckers," "All you motherfuckers is going to jail. First you got to pick up this shit and put it back in the apartment," "They aren't going nowhere until you all pick this shit up now," and "take all of them motherfuckers." § 87(2)(b) picked up a toy set and brought it back inside the apartment, but no one else assisted with bringing items inside. Nevertheless, Sgt.

Keane ordered the officers to arrest § 87(2)(b) and her family, including § 87(2)(b) who was § 87(2)(b) old. § 87(2)(b) was mad that § 87(2)(b) was getting arrested. The women were arrested and brought to the 32nd Precinct stationhouse. § 87(2)(b) did not corroborate § 87(2)(b)'s allegation that PO Kinsey spoke discourteously towards them at the stationhouse (See Board Review 5).

§ 87(2)(b)'s (See Board Review 6) and § 87(2)(b)'s (See Board Review 7) statements were generally consistent with § 87(2)(b)'s and § 87(2)(b)'s statements. § 87(2)(b) stated that Sgt. Keane ordered them to pick the items up in the hallway, saying, "All you motherfuckers get all this stuff back in the house." However, approximately 15-20 minutes after issuing this order to the women, Sgt. Keane announced that they were getting arrested and the women did not have a chance to pick the items up. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) confirmed that she was the only person who fought § 87(2)(b). § 87(2)(b) corroborated that Sgt. Keane said, "You motherfuckers are going to pick this shit up," to her and her relatives. § 87(2)(b) replied, "I'm not picking up shit." Sgt. Keane also stated, "All of you motherfuckers is getting arrested." § 87(2)(b) believed that her family's refusal to pick up the items in the hallway played a role in their arrests. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated that prior to the incident, she was packing her belongings and getting ready to move out of § 87(2)(b)'s apartment. § 87(2)(b) and § 87(2)(b) entered the apartment and the four women proceeded to assault § 87(2)(b). § 87(2)(b) stated that § 87(2)(b) had a hammer in her hand and was using it to threaten § 87(2)(b). The four women also took § 87(2)(b)'s daughter's belongings and threw them out into the hallway. § 87(2)(b) stated that when officers arrived on scene following her 911 call, Sgt. Keane remained with her in the hallway throughout the incident and he never went inside the apartment or spoke with the four women that assaulted her. § 87(2)(b) stated that none of the officers, including Sgt. Keane, used any profanity during the incident (See Board Review 8). An Event Chronology generated for this incident confirmed that § 87(2)(b) called 911 to report that she had been assaulted by members of her ex-boyfriend's family (See Board Review 9). Contact attempts were made to residents of the neighboring apartments and those who were reached stated that they did not witness the incident.

Sgt. Keane stated that earlier on the date of the incident, he responded to the location and arrested § 87(2)(b) for unlawful eviction because he had changed the lock on his door, preventing § 87(2)(b) who was determined to be a lawful resident, from gaining access to the apartment. When Sgt. Keane arrived at the location for this incident, he saw § 87(2)(b)'s belongings scattered across the hallway and § 87(2)(b) informed him that the four other women had assaulted her and thrown her belongings out into the hallway. Sgt. Keane never spoke with § 87(2)(b) and her family since other officers at the scene were obtaining statements and determining what had occurred. After conferring with his officers, Sgt. Keane determined that § 87(2)(b) was assaulted by the four other women and that they would be placed under arrest. Sgt. Keane did not order the women to pick up the objects in the hallway. Sgt. Keane denied saying, "You motherfuckers are going to pick this shit up" to § 87(2)(b) and § 87(2)(b). Sgt. Keane denied saying any of the alleged discourteous remarks. Sgt. Keane denied using any profanity during the incident. Sgt. Keane had no further interaction with the women at

the stationhouse and he did not hear PO Kinsey say that the women were arrested because they did not “pick that shit up that was in the hallway.” (See Board Review 10)

PO Kinsey’s statement was generally consistent with Sgt. Keane’s statement. PO Kinsey stated that when he arrived at the scene, § 87(2)(b) complained that one of the four other women had taken her phone and that they threw her belongings out into the hallway. PO Kinsey stated that he proceeded to look for the phone and it was eventually found in the pocketbook of one of the females that assaulted her. PO Kinsey did not recall whether Sgt. Keane ever instructed § 87(2)(b) and her relatives to pick up the items in the hallway. PO Kinsey did not think that Sgt. Keane ever had any interaction with the four women in the apartment. PO Kinsey did not recall hearing Sgt. Keane make any of the alleged discourteous remarks and Sgt. Keane did not use any profanity during the incident. PO Kinsey stated that he assisted with the arrest processing for § 87(2)(b) and her family at the stationhouse and he engaged in some small talk with them and they seemed happy. PO Kinsey denied saying to the women that they were arrested because they did not “pick that shit up that was in the hallway” and PO Kinsey never used any profanity during the incident (See Board Review 11).

PO Pagan-Merritt’s statement was generally consistent with the other officers’ statements. PO Pagan-Merritt stated that § 87(2)(b) and her relatives denied throwing § 87(2)(b)’s belongings out into the hallway and that § 87(2)(b) took her belongings out on her own. § 87(2)(b) complained that her phone was missing and PO Pagan-Merritt found her phone disassembled in a bag belonging to § 87(2)(b). PO Pagan-Merritt stated that Sgt. Keane did instruct the women in the apartment to pick the items up in the hallway, but the women did not verbally respond or pick the items up. Sgt. Keane did not react to their failure to act upon his orders. Sgt. Keane did not make any of the alleged discourteous remarks and he did not use any profanity towards § 87(2)(b) and her family, who were all upset that they were getting arrested. PO Pagan-Merritt was present at the stationhouse during the arrest processing and she stated that PO Kinsey did not tell the women that they were arrested because they did not “pick that shit up that was in the hallway.” (See Board Review 12)

PO Lassen’s statement was also generally consistent with the other officers’ statements. PO Lassen stated that he was Sgt. Keane’s operator and he was only present at the scene to provide security and backup for the lead officers conducting the investigation into § 87(2)(b)’s assault. As such, PO Lassen did not recall the incident very well. PO Lassen denied hearing Sgt. Keane or PO Kinsey make any of the alleged discourteous remarks. PO Lassen was not present at the stationhouse during the arrest processing. PO Lassen helped § 87(2)(b) and Sgt. Keane pick up § 87(2)(b)’s belongings in the hallway after § 87(2)(b) and her family were placed in police custody and removed to the stationhouse (See Board Review 13).

§ 87(2)(b) and § 87(2)(b) were all consistent in alleging that Sgt. Keane used profanity towards them when instructing them to pick up § 87(2)(b)’s belongings in the hallway. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

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Pod: 8

Investigator:	_____	_____	_____
	Signature	Print	Date
Pod Leader:	_____	_____	_____
	Title/Signature	Print	Date
Attorney:	_____	_____	_____
	Title/Signature	Print	Date